

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FRACTUS, S.A.,

Plaintiff,

v.

JURY TRIAL DEMANDED

AT&T MOBILITY LLC,

Defendant,

and

COMMSCOPE TECHNOLOGIES LLC
and CELLMAX TECHNOLOGIES AB,

Intervenor-Defendants.

Case No. 2:18-cv-00135-JRG
LEAD CASE

SPRINT COMMUNICATIONS
COMPANY, L.P., ET AL.,

Defendants,

and

COMMSCOPE TECHNOLOGIES LLC
and CELLMAX TECHNOLOGIES AB,

Intervenor-Defendants.

Case No. 2:18-cv-00136-JRG

ORDER OF DISMISSAL WITH PREJUDICE

Before the Court is the Joint Motion to Dismiss with Prejudice (the “Motion”) filed by Plaintiff Fractus, S.A. (“Fractus”); Defendants Sprint Communications Company, L.P. (“Sprint Communications”), Sprint Spectrum, L.P. (“Sprint Spectrum”), Sprint Solutions, Inc. (“Sprint Solutions”), Nextel Operations, Inc. (“Nextel Operations”) (Sprint Communications, Sprint Spectrum, Sprint Solutions and Nextel Operations, collectively, together with their corporate

parents, subsidiaries and affiliates, “Sprint”); and Intervenor-Defendants CellMax Technologies AB (“CellMax”) and CommScope Technologies LLC (together with its parent, subsidiaries and affiliates, “CommScope”) regarding Case No. 2:18-cv-136-JRG. (Dkt. No. 277.)

Having considered the Motion, the Court finds that it should be and hereby is **GRANTED**. It is therefore **ORDERED** that all claims for relief brought by any party in Case No. 2:18-cv-136-JRG, including without limitation all claims brought therein regarding infringement of U.S. Patent Nos. 6,937,191; 7,250,918; 7,557,768; 8,896,493; 9,905,940; 8,497,814; 9,754,824; 9,450,305; 8,228,256; and 7,932,870 (collectively, the Patents-in-Suit), together with any Counterpart of the Patents-in-Suit¹ that have been or could have been asserted as a part of said case against Sprint, CommScope, or CellMax, are **DISMISSED WITH PREJUDICE**, except as follows:

- (1) With respect to CellMax and CommScope, only those claims asserted or that could have been asserted by Fractus against CellMax or CommScope, and by CellMax or CommScope against Fractus, that arise out of sales of products to (or the use of products by) Sprint are dismissed;
- (2) All claims asserted in the related cases, Case No. 2:18-cv-135-JRG, Case No. 2:18-cv-137-JRG and Case No. 2:18-cv-138-JRG, including those concerning sales of products to (or use of products by) AT&T Mobility LLC, T-Mobile US, Inc., T-Mobile USA, Inc., and Cellco Partnership d/b/a Verizon Wireless are **NOT DISMISSED**, and those cases remain pending; and

¹ For purposes of this Order, Counterpart shall mean all patents and patent applications deriving from, claiming priority to or through, or sharing a common priority claim with any of the Patents-in-Suit; any patents issued or granted via any divisionals, continuations, continuations-in-part, reissues, or reexaminations of the Patents-in-Suit or of the foregoing patents and patent applications; and foreign counterparts of the Patents-in-Suit or of the foregoing patents and patent applications.


(3) CellMax's counterclaims against Fractus are **DISMISSED WITHOUT PREJUDICE**.

It is further **ORDERED** that all attorneys' fees, costs of court, and expenses shall be borne by the party incurring the same.

This Order disposes of all parties and all claims in Case No. 2:18-cv-136-JRG. All other pending claims for relief therein are **DENIED AS MOOT** except as set forth herein. The Clerk is directed to **CLOSE** Case No. 2:18-cv-136-JRG.

All other actions consolidated therewith, Case No. 2:18-cv-135-JRG, Case No. 2:18-cv-137-JRG, and Case No. 2:18-cv-138-JRG, remain **OPEN AND ACTIVE**.

So ORDERED and SIGNED this 26th day of April, 2019.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE